



Misc

2300 Lake Elmo Drive
Billings, MT 59105
January 15, 2002

TO: Environmental Quality Council
Director's Office, Dept. of Environmental Quality
Montana Fish, Wildlife & Parks

Director's Office
Parks Division
Fisheries Division
Wildlife Division

Lands Section
Design & Construction
Legal Unit
Regional Supervisors

Montana Historical Society, State Preservation Office
Janet Ellis, Montana Audubon Council
Montana Wildlife Federation

Montana State Library

George Ochenski

Montana Environmental Information Center

Wayne Hirst, Montana State Parks Foundation

Don Kendall, DNRC Area Manager, Southern Land Office

Albert Brown, Carbon County Commissioner

Ladies and Gentlemen:

The enclosed draft Environmental Assessment (EA) has been prepared for the replacement of three existing culverts with a steel bridge where Dutch Lane crosses Silvertip Creek (a tributary to the Clarks Fork of the Yellowstone River), and is submitted for your consideration.

Questions and comments will be accepted until February 14, 2002. If you have questions or need additional copies of the draft EA, please contact Montana Fish, Wildlife & Parks at 247-2940. Please send any written comments to the following address:

Dutch Lane Bridge EA
C/O Montana Fish, Wildlife & Parks
2300 Lake Elmo Drive
Billings, MT 59105 or
(JDarling@state.mt.us)

Thank you for your interest.

Sincerely,

Harvey E. Nyberg
Harvey E. Nyberg
Regional Supervisor

Carbon

Enclosure

DEPARTMENT OF FISH, WILDLIFE AND PARKS
1420 E 6th Ave, PO Box 200701 Helena, MT 59620-0701
(406) 444-2535

ENVIRONMENTAL ASSESSMENT

Project Title Dutch Lane Bridge

Division/Bureau Fisheries/Management

Program Fisheries

Description of Project Replacing three existing culverts with a steel bridge where Dutch Lane crosses Silvertip Creek (T8S, R22E, S1, SE1/4, SW1/4), a tributary to the Clarks Fork of the Yellowstone River. The 40 foot long bridge will be 10 feet longer than the culverts shown in the accompanying photographs.

POTENTIAL IMPACT ON PHYSICAL ENVIRONMENT

	MAJOR	MODERATE	MINOR	NONE	UNKNOWN	COMMENTS ON ATTACHED PAGES
1. Terrestrial & aquatic life and habitats			X			I-1
2. Water quality, quantity & distribution			X			I-2
3. Geology & soil quality, stability & moisture				X		
4. Vegetation cover, quantity & quality			X			I-4
5. Aesthetics			X			I-5
6. Air quality				X		
7. Unique, endangered, fragile, or limited environmental resources				X		
8. Demands on environmental resources of land, water, air & energy				X		

	MAJOR	MODERATE	MINOR	NONE	UNKNOWN	COMMENTS ON ATTACHED PAGES
9. Historical & archaeological sites					X	

POTENTIAL IMPACTS ON HUMAN ENVIRONMENT

	MAJOR	MODERATE	MINOR	NONE	UNKNOWN	COMMENTS ON ATTACHED PAGES
1. Social structures & mores				X		
2. Cultural uniqueness & diversity				X		
3. Local & state tax base & tax revenue				X		
4. Agricultural or industrial production				X		
5. Human health				X		
6. Quantity & distribution of community & personal income				X		
7. Access to & quality of recreational and wilderness activities				X		
8. Quantity & distribution of employment				X		
9. Distribution & density of population & housing				X		
10. Demands for government services				X		
11. Industrial & commercial activity				X		
12. Demands for energy				X		
13. Locally adopted environmental plans & goals				X		

	MAJOR	MODERATE	MINOR	NONE	UNKNOWN	COMMENTS ON ATTACHED PAGES
14. Transportation networks & traffic flows			X			II-14

Other groups or agencies contacted or which may have overlapping jurisdiction U.S. Army Corps of Engineers

Individuals or groups contributing to this EA

Recommendation concerning preparation of EIS None required

EA prepared by : James E. Darling

Date: December 17, 2001

COMMENTS

I-1. The stream is often dry in this reach and of otherwise poor water quality.

I-2. Replacing the culverts with a bridge having a wider span should improve flows and reduce erosion in the immediate vicinity.

I-4. Vegetation nearest the stream will be avoided during construction. The upbank areas are heavily grazed.

I-5. The bridge should be an aesthetic improvement over the three culverts.

I-14. Local traffic flow will be disrupted during construction. Detour routes are available.

APPENDIX A

PRIVATE PROPERTY ASSESSMENT ACT CHECKLIST

The 54th Legislature enacted the Private Property Assessment Act, Chapter 462, Laws of Montana (1995). The intent of the legislation is to establish an orderly and consistent process by which state agencies evaluate their proposed actions under the "Takings Clauses" of the United States and Montana Constitutions. The Takings Clause of the Fifth Amendment of the United States Constitution provides: "nor shall private property be taken for public use, without just compensation." Similarly, Article II, Section 29 of the Montana Constitution provides: "Private property shall not be taken or damaged for public use without just compensation..."

The Private Property Assessment Act applies to proposed agency actions pertaining to land or water management or to some other environmental matter that, if adopted and enforced without compensation, would constitute a deprivation of private property in violation of the United States or Montana Constitutions.

The Montana State Attorney General's Office has developed guidelines for use by state agency to assess the impact of a proposed agency action on private property. The assessment process includes a careful review of all issues identified in the Attorney General's guidance document (Montana Department of Justice 1997). If the use of the guidelines and checklist indicates that a proposed agency action has taking or damaging implications, the agency must prepare an impact assessment in accordance with Section 5 of the Private Property Assessment Act. For the purposes of this EA, the questions on the following checklist refer to the following required stipulation(s):

(List any mitigation/stipulations required, or note "None".)

**DOES THE PROPOSED AGENCY ACTION HAVE TAKINGS IMPLICATIONS
UNDER THE PRIVATE PROPERTY ASSESSMENT ACT?**

YES

NO

- | | | |
|-------|---------|---|
| _____ | ___X___ | 1. Does the action pertain to land or water management or environmental regulation affecting private real property or water rights? |
| _____ | ___X___ | 2. Does the action result in either a permanent or indefinite physical occupation of private property? |
| _____ | ___X___ | 3. Does the action deprive the owner of all economically viable uses of the property? |
| _____ | ___X___ | 4. Does the action deny a fundamental attribute of ownership? |
| _____ | ___X___ | 5. Does the action require a property owner to dedicate a portion of property or to grant an easement? [If the answer is NO , skip questions 5a and 5b and continue with question 6.] |
| _____ | _____ | 5a. Is there a reasonable, specific connection between the government requirement and legitimate state interests? |
| _____ | _____ | 5b. Is the government requirement roughly proportional to the impact of the proposed use of the property? |
| _____ | ___X___ | 6. Does the action have a severe impact on the value of the property? |
| _____ | ___X___ | 7. Does the action damage the property by causing some physical disturbance with respect to the property in excess of that sustained by the public generally? [If the answer is NO , do not answer questions 7a-7c.] |
| _____ | _____ | 7a. Is the impact of government action direct, peculiar, and significant? |
| _____ | _____ | 7b. Has government action resulted in the property becoming practically inaccessible, waterlogged, or flooded? |
| _____ | _____ | 7c. Has government action diminished property values by more than 30% and necessitated the physical taking of adjacent property or property across a public way from the property in question? |

Taking or damaging implications exist if **YES** is checked in response to question 1 and also to any one or more of the following questions: 2, 3, 4, 6, 7a, 7b, 7c; or if **NO** is checked in response to questions 5a or 5b.

If taking or damaging implications exist, the agency must comply with Section 5 of the Private Property Assessment Act, to include the preparation of a taking or damaging impact assessment. Normally, the preparation of an impact assessment will require consultation with agency legal staff.

DUTCH LANE BRIDGE LOOKING UPSTREAM



LOOKING UPSTREAM AT DUTCH LANE BRIDGE



LOOKING DOWNSTREAM FROM DUTCH LANE BRIDGE

